

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 492
case No. 85-16F/84-20P
(Donohoe - PUD)
August 4, 1986

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on February 6, 13 & 20, 1986. At those hearing sessions, the Zoning Commission considered applications from the Donohoe Companies, Inc., the Chevy Chase Land Company of Montgomery county, and the National Security and Trust Company (NS&T) for second-stage (final) review and approval of a Planned Unit Development (PUD) and related map amendment, pursuant to Sections 7501 and 9101, respectively, of the Zoning Regulations of the District of Columbia. The public hearing was conducted in accordance with the provisions of Chapter 6 of the Rules of Practice and Procedure before the Zoning Commission. The record of this case incorporates the records in Z.C. Case No. 85-9P (Miller - PUD) and Z.C. Case No. 85-20C (Abrams - PUB).

FINDINGS OF FACT

1. The applications, which were filed on October 18, 1985, requested final review and approval of a PUB and a related change of zoning from R-5-B, C-2-B, and C-3-A to C-3-B for lots 20, 21, 23 and 810 in Square 1661 with portions of a public street and alley proposed to be closed.
2. The applicants propose to construct a mixed-use development including hotel, office and retail uses,
3. The PUD site is split-zoned, as described above, located at the east corner of the intersection of Western and Wisconsin Avenues! N.W. adjacent to Montgomery County, Maryland, comprises approximately 95,656 square feet of land area, and is improved with several small buildings plus several surface parking lots.
4. The R-5-B District permits matter-of-right medium density development of general residential uses including single-family dwellings, flats, and apartments to a maximum lot occupancy of sixty percent, a maximum floor

area ratio (FAR) of 1.8, and a maximum height of sixty feet.

5. The C-%-B District permits matter-of-right medium density development including office, retail, and all kinds of residential uses to a maximum FAR of 3.5 with non-residential uses limited to 1.5 FAR, a maximum height of sixty-five feet, and a maximum lot occupancy of eighty percent for residential uses.
6. The C-3-A District permits matter-of-right development for major retail and office uses to a maximum height of sixty-five feet, a maximum FAR of 4.0 for residential and 2.5 for other permitted uses, and a maximum lot occupancy of seventy-five percent for residential uses.
7. The C-3-B District permits matter-of-right major business and employment centers of medium density development, including office, retail, housing, and mixed uses to a maximum height of seventy feet/six stories, a maximum floor area ratio (FAR) of 5.0 for residential and 4.0 for other permitted uses, and a maximum lot occupancy of one hundred percent.
8. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to impose development conditions, guidelines, and standards which may exceed or be lesser than the matter-of-right standards identified above,
9. The Generalized Land-Use Element Map of the Comprehensive Plan shows the area in the vicinity of Square 1661 to include both the Mixed Use Medium Density Residential category and the Medium Density Commercial category. The subject area is also identified as a commercial regional center, and a Metrorail station development opportunity area.
10. The zoning pattern in the area includes R-2 zoning to the east, R-5-B zoning to the northeast and southeast with R-2 beyond, C-Z-B zoning to the south with R-5-B, C-2-A, and R-2 beyond, C-3-A zoning to the southwest with C-2-A and R-2 beyond, and Montgomery County, Maryland to the west, northwest and north.
11. Uses in the Square include the two-story NS&T Bank building at the east corner of Wisconsin and Western Avenues with the drive-in facility of the bank to its east. South of the NS&T Bank, along Wisconsin Avenue, are the two-story First American Bank building, and to its south the vacant one-story Interstate Bank building. All of the above mentioned structures will be razed. The existing surface parking lots on the balance of the PUD site will be eliminated.

12. The rest of Square 1661 to the south is occupied by a surface parking lot, the Rex Liquor Store, a retail store, a veterinary office and, at the corner of Wisconsin Avenue and Jenifer Street, the six-story Columbia First Federal Savings and Loan building. Along 43rd Street are a surface parking lot, three detached single-family dwelling units and a large undeveloped parcel of land zoned R-5-B.,
13. To the west of the subject site, across Wisconsin Avenue is the Mazza Gallerie shopping center. Diagonally across the street, in Maryland, is a Woodward and Lothrop Department Store and directly across the street, also in Maryland, is the Chevy Chase Metro Building, recently constructed. These three developments constitute the existing development patterns at the intersection of Western and Wisconsin Avenues, N.W.
14. At the time the Zoning Commission published a notice of public hearing in the D.C. Register on December 27, 1985, it gave notice of special procedures applicable to this case in order to regulate the course of the hearing, to establish reasonable time limits for witnesses and to fairly allocate time among the parties and others. Pursuant to that notice, a prehearing conference was held on Monday, January 27, 1986. At that time, the Zoning Commission determined which persons would be admitted as parties, which witnesses would be accepted as experts, the amount of time to be allocated to each party and to other persons, and ruled upon some procedural matters, including a request by some of the parties to not hold the hearings at this time. The Commission denied those requests.
15. The applicants propose to construct a development with a 198 room hotel plus some retail and office uses interrelating around a centrally located multi-story atrium. There will be three levels of underground parking to accommodate 630 plus cars.
16. The applicants propose to close Belt Lane and the alley between Belt Lane and Military Road, and include those areas as a part of the PUD site,
17. The applicants propose to provide direct underground pedestrian connection to the Friendship Heights Metro-rail Station at the lowest of three retail levels. The Friendship Heights Metrorail Station is the only station in the entire Metrorail system that is a four-portal station. The portals are and will serve the Chevy Chase Metro Building, Woodward & Lothrop Department Store, the Mazza Gallerie, and the PUD site.

18. The proposed development will include a height of seventy feet at the cornice line for the hotel and 100 feet for the retail/office component, an FAR of 5,125, excluding atrium and public walkways, a lot occupancy not to exceed ninety-one percent, and a gross floor area of approximately 490,237 square feet including 160,337 square feet for hotel use, 112,070 square feet for retail use, and 217,830 square feet for office use.
19. On October 7, 1985, the Zoning Commission, by Z.C. Order No. 472, granted first-stage (preliminary) approval of a PUD, subject to conditions, guidelines and standards. The PUD provisions of the Zoning Regulations require the applicants to conform to those development conditions upon filing an application for second-stage (final) PUD review. With respect to those guidelines, conditions, and standards, the Commission notes the following:
 - a. The proposal is to develop the PUD site under the C-3-B District provisions of the Zoning Regulations;
 - b. The final design of the project is not completely based upon the plans marked as part of Exhibit No. 27C of the record in Case No. 84-20P, as modified to conform to the guidelines, conditions, and standards of this order;
 - c. The project is a mixed-use development consisting of a hotel component, an office component and a retail component connected by a covered atrium;
 - d. The maximum floor area ratio of 5.0 for the project (except that the applicants may exceed or reduce the FAR by not more than $2\frac{1}{2}$ percent, for a range of 4.875 FAR to 5.125 FAR) is exceeded. The applicants did not retain the proposed gross floor area for the hotel component of approximately 161,480 square feet;
 - e. The height of the office component of the project is reduced by one story from the height of the office component as shown on the plans marked as Exhibit No. 27C of the record in Case No. 84-20P. The applicants submitted, at the time of the second-stage filing, information regarding the height of the Mazza Gallerie and any urban design considerations thereto that may affect the subject project;

- f. The lot occupancy of the project is not in excess of ninety-one percent;
- g. The final design of the hotel has no less than 175 rooms. No exhibit space or ballroom space is provided. Other function space is limited to that space needed to serve registered guests of the hotel, and is identified and justified in connection with the second-stage filing;
- h. The applicants submitted drawings with the second-stage filing that propose a workable solution for the temporary parking and loading of one bus on the outside of the hotel;
- i. Parking is provided as proposed in the plans marked as Exhibit No. 27B of the record in Case No. 84-20P. There is no vehicular access to or from 43rd Street, whether along Belt Lane or otherwise, except during construction of the project and while the temporary banking facility is in operation;
- j. The applicants gained access from and egress to Jenifer Street for loading and other utilitarian purposes or needs. As a second alternative, the Commission considered a proposal that shows vehicular access to and/or from Wisconsin Avenue. The residential zoned triangle portion of the PUD site located adjacent to Military Road is not used for any loading related purposes;
- k. The applicants submitted drawings that show a setback for the office component at a ratio not to exceed 1:1 (forty-five degree angle maximum) beginning at a height of not more than sixty feet at a point where the office component abuts the adjacent R-5-B Zone District to the east of the PUD site;
- l. The applicants submitted at the second-stage filing a minority opportunity program affecting construction as well as on-going jobs commitments;
- m. The final design of the project provides an entrance to the hotel at the corner of Wisconsin and Western Avenues, or shall provide for additional Landscaping at said corner;
- n. The final design of the project shows a proposed pedestrian connection for Metrorail users to properties to the south and not to the east of the PUD site;

- o. The applicants provided the Department of Public Works an opportunity to review all vehicular and circulation drawings prior to filing a second-stage application;
 - p. The second-stage application clarifies and justifies the proposed interim use of the residential zoned triangle portion of the PUD site located adjacent to Military Road; and
 - q. This approval was valid for a period of one year from the effective date of Z.C. Order No. 492. Within that period, the applicant filed a second-stage application in order for the first-stage approval to remain in effect.
- 20. At the public hearing, the applicants filed an alternative plan (also known as Alternative B) showing a height of 110 feet for the office component as proposed in the first-stage plan with additional setbacks and terracing.
- 21. The applicants' architect indicated that there were two minor design changes in the second-stage plan. The first change is because of the limitations imposed by a 15 foot setback on Military Road. The second-stage plans show an extension of the building along Military Road and a change to the single-loaded corridor hotel concept with a positive impact on the atrium use. The second change is a consolidation of the entrances to the buildings at Military Road because of changes to the loading areas resulting from the through-square connector, the need to provide security, and the desire to discourage cars from unloading passengers at a second-point on Military Road.
- 22. The architect further indicated that the hotel is designed as a single-loaded corridor which maximizes the atrium use by providing balconies over-looking the atrium area. The project also includes three levels of retail uses surrounding the atrium area and an office component which is designed for primarily professional office uses with possibly one or two full floor tenants in the building. The office component has been designed to provide a minimum setback of one-to-one beginning at a height of 60 feet at the east property line.
- 23. The architect explained that the rationale for excluding the public walkways and atrium area from the floor area calculations was that those areas are used to maximize pedestrian passage through the project and to provide a year round controlled environment. Those

areas are not to be used for hotel, office, or retail use and are thus not traffic generators.

24. The applicants indicated that the use of the hotel will focus on the business traveler and not on tour groups or convention travelers. In the event a large group of business travelers are leaving the hotel, it is anticipated that vans will be used for transportation. The applicants testified that these vans will be parked in the building garage in the service delivery spaces on a temporary basis. The applicants' architect also testified that in the unforeseen event buses are needed for the hotel, an area has been provided along Military Road to serve as a temporary parking space for a bus.
25. The applicants further indicated that the second-stage plan for the hotel component shows a height of approximately 70 feet to the cornice line of the hotel. This cornice line corresponds to the height of Mazza Gallerie which is approximately 60 feet.
26. The applicants have worked out an agreement with the other developers in Square 1661 to provide a "through-block connector," Pursuant to the agreement reached among the three developers, the applicants have agreed to provide access along the existing alleyway along the east portion of its site, down a ramp, to connect with the ramp system for the adjacent property, developed by the Miller Companies. Additionally, the applicants have agreed to build a ramp from Wisconsin Avenue to be used for right turns in and right turns out. The solution proposed provides for one-way access from Military Road connecting through to Jenifer Street for both trucks and cars. Additional access is provided through the ramp system on the Donohoe site from Wisconsin Avenue. A significant feature of the proposed through-block connector is that it allows the Donohoe project to "stand alone" in the event the other projects in the Square do not go forward. Under the stand-alone approach, the applicants would have access to both Military Road and Wisconsin Avenue. As other developments proceed, the full through-block connector would be constructed so that coordinated vehicular loading access is provided to all projects. The design of the through-block connector is such that it allows the Miller Companies the opportunity to develop a portion of its site residentially and to locate its loading facility one level below grade.
27. The applicants indicated that all vehicular access is from Military Road, Wisconsin Avenue, and Jenifer Street. The applicants testified that the only time 43rd Street will be used is during the actual construction period. During that time, it is anticipated that

the temporary banking facility for NS&T, which will be located in the park area, will need access to parking spaces. Additionally, the applicants testified that it is assumed that during the construction phase the actual equipment coming to the site may use Belts Lane until the permanent driveway is constructed.

28. The applicants filed in the record a Memorandum of Understanding among the three developers of Square 1661 indicating that the developers had agreed to provide coordinated signage and graphics and coordinated architectural treatment for the through-block connector. In that same agreement, the developers have also agreed to provide coordination among the three parking garages proposed and to also provide the opportunity for a potential connection between all three garages.
29. The applicants indicated that the triangular "park" area of the PUD site adjacent to Military Road will be used as a temporary facility for NS&T and will not be used for loading berths. However, a portion of this area is used for maneuvering space for vehicles using the loading berths across the through-block connector, has a wood lattice covering to improve the visual appearance of the area, and is needed to provide access to the adjacent property for continuation of the through-block connector,
30. The applicants entered into an agreement with the Minority Business Opportunity Commission (MBOC) to promote minority participation in the development of this project. The applicants filed in the record of the second-stage PUD a detailed description of the program that had been worked out with the MBOC including phasing, job commitments, as well as estimates of the values of the contracts to be awarded.
31. The applicants indicated that a pedestrian connection for Metrorail use is provided to the adjacent Miller Companies property at the south property line. This connects with the pedestrian entrances proposed by the Miller Companies on its plans filed with the Zoning Commission in Z.C. Case No. 85-9P. The applicants could provide no entrance at the east property line due to the location of the through-square connector. For pedestrian safety reasons, as well as security reasons, the applicants testified that they propose to provide pedestrian connections through the interior of their property where access can be controlled and guarded. The applicants believe that any pedestrian walking from 43rd Street can use Military Road to access the Metrorail station,

32. The applicants' traffic and transportation consultant testified that the plans that were filed in the record show the proposed location of the through-square connector as conceptually agreed to by all three property owners in the square. The solution avoids commercial traffic on 43rd Street, allows for coordinated loading and access, and reduces the traffic burden at the intersections of Wisconsin and Western Avenues , and Wisconsin Avenue and Jennifer Street.
33. The applicants' traffic and transportation consultant further testified that the latest traffic counts at the intersection of Wisconsin and Western Avenues indicate a reduction in peak-hour traffic and a current level of service B.
34. He indicated that the proposed PUD which had been reduced in bulk, coupled with full development of the square and, in addition, anticipated development in the surrounding neighborhood, would still create a level of Service C at the intersection of Western and Wisconsin Avenues.
35. The applicants filed in the record further refinement of their transportation management program which the applicants are committed to implementing to reduce the number of single occupant vehicles accessing the property and to further maximize use of Metrorail Station.
36. The applicants agreed to share with the other developers in Square 1661 the cost of street and road improvements.
37. The applicants' air quality consultant testified that as a result of changes in emission control devices and the District's implementation of an emission inspection program, there has been a significant improvement to the District's air quality in recent years. The air quality expert testified that the proposed PUD would have no adverse impact on air-quality standards at Wisconsin and Western Avenues. The air quality expert testified that although any development, including matter-of-right development, would increase carbon monoxide emissions, the increase would be minimal and well within acceptable District of Columbia and Federal EPA Standards,
38. The applicants' architect testified as to the building materials and the treatment of the atrium area. He testified that in order to distinguish the two-story

retail base from the remainder of the building, it is proposed to use granite for the retail base. The two-story base would be thermal-furnished granite with polished granite to highlight window openings and areas that need maintenance, such as the base and trim details. Above the two-story base would be a combination of granite aggregate precast and a smooth textured panel to simulate a limestone finish. The colors proposed indicate a buffered color for the window mullion, a metal rough in a more pastel color and an option for the retail awnings which would complement those three colors. The glass for the building would be a pastel blue color with punched openings on the hotel component and more traditional, ribbon windows on the office component. The roof of the atrium, which would not be visible from the street, would be of reflective glass for energy conservation purposes. The sides of the atrium would have the slightly tinted blue glass with a 30 percent insulation (reflective) character.

39. The applicants also submitted a description of the signage for the project including the approximate size, location and materials to be used.
40. The applicants identify the following amenities package for the PUD project:
 - a. Coordinated, unified development of substance at this strategic location;
 - b. A building of superior quality and design reinforcing the gateway concept;
 - c. The dramatic full height enclosed atrium as an active community place;
 - d. Support to the Metro system and direct Metro access;
 - e. A transportation management program;
 - f. A small but highly visible park;
 - g. An additional 1600 new full-time jobs;
 - h. Tax revenues of \$5,000,000 annually as contrasted with the existing revenues of \$140,000 per year;
 - i. A first source employment agreement;
 - j. A minority business opportunity agreement; and

- k. Community facilities in the atrium area including a government kiosk and meeting facilities for local government and civic groups.
41. The applicants requested that the Zoning Commission grant development flexibility in the following areas:
- a. Final selection of exterior and interior materials within the color ranges and material types as proposed, based on availability at time of construction;
 - b. Changes to the location and design of all interior components of the building including partitions, stairways, doors, hallways, electrical and mechanical rooms, and placement of columns so as to comply with all applicable codes or as required to obtain a final building permit;
 - c. Changes to the arrangement of the parking spaces and modification to the below grade space to provide the opportunity for storage and other space to serve the proposed users of the building;
 - d. Changes to the design and configuration of the temporary banking facility for NS&T provided the same number of parking spaces is provided;
 - e. Modifications to the design of the proposed through-square connector as a result of further review by the Department of Public Works and changes in the development plans of the other developers in the square; and
 - f. The flexibility permitted, pursuant to the Planned Unit Development provisions of the Zoning Regulations contained in Article 75.
42. The District of Columbia Office of Planning (OP), by memorandum dated January 28, 1986 and by testimony presented at the public hearing, recommended that preferably Alternative B of the application be approved. The OP indicated that,

"In the opinion of the Office of Planning this application is in conformity with Zoning Commission Order No. 472. One of the two key issues in the second-stage is whether the access/egress issues and the through-square connector have been resolved. The applicants, working in conjunction with the rest of the property owners in Square 1661, are proposing a through-block connection which would provide access from and egress to Jennifer Street for loading and other utilitarian

purposes or need for their project as well as the other proposed developments in Square 1661. The applicants are also proposing to build a ramp to provide access to Wisconsin Avenue to be used for right turns in and out solely on their property.

The other key issue is height and bulk. The Commission ordered that the height shall not exceed 100 feet. The applicants has filed alternatives A and B. Alternative A complies with the Commission's order regarding height. Alternative B proposes a height of 110 feet with more setbacks than Alternative A along Wisconsin Avenue, the south boundary of the property and 43rd Street. The OP's opinion, the proposed Alternative B is better for this location. The added height anchors the gateway concept of the proposal at this key intersection. Also the increased height allows for several additional building setbacks from the property line which lessen the bulk of the building and its impact on the adjacent residential neighborhood to the east'".

43. The OP, by summary/abstract memorandum dated April 9, 1986, recommended proposed development guidelines, conditions, and standards for consideration by the Commission.
44. The District of Columbia Department of Public Works (DPW), by memorandum dated January 28, 1986 and by testimony presented at the public hearing, reported that a through-square connector will be implemented as a result of coordination and agreement between the three developers in the Square. The DPW concluded that

"Trips generated by current and projected plan for Square 1661 can be accommodated within an overall level of service D, with critical lane groups (Wisconsin Avenue northbound through southbound left turn) experiencing a level of service E and F, respectively. However, when consideration is made of other potential developments on the District and Maryland sides of the Friendship Heights area, trips generated from such developments would push the level of service of both Wisconsin Avenue approaches to E."

The DPW, by that same memorandum, recommended the following:

- a. That the implementation of a transportation management program be a precondition for approval of the second-stage PUD; and
 - b. That the three developers in the Square come to a legally binding agreement to the satisfactions of the DPW and that that agreement be a precondition to approval of this PUD.
45. The DPW, be memorandum dated March 28, 1986, reported that proposed reconstruction of Military Road would affect Square 1661, and that additional design features to the Square to accommodate internal vehicle and pedestrian circulation include pedestrian access to all three development sites to the Metrorail, and a conflict-free pedestrian crossing of Wisconsin and Western Avenues through Metro underground.
- 46, The DPW indicated that the suggestion to make Military Road traffic one-way is not workable, and that Military Road must continue to function as a two-way arterial street because there is no other east/west route to replace it. DPW also indicated that the proposed truck management plan is workable and will provide a high level of safety and control of truck operations for the Square.
- 47" The DPW believes that the following design and controls that it has required for access to and from Square 1661 will adequately protect the neighborhood from traffic intrusion resulting- from the three developments in the Square:
- a. Widening of Wisconsin Avenue (at developers" expense);
 - b. Widening of Jenifer Street (at developers' expense);
 - c. Channelization on Jenifer Street to prevent use of 43rd Street by Square 1661 traffic (at developers' expense);
 - d. Reconstruction of Western Avenue/Military Road intersection to permit southeastbound left turns (at developers" expense);
 - e. Widening of Military Road adjacent to Square 1661 (at developers" expense);
 - f. Providing a landscaped median in Wisconsin Avenue (at developers' expense);

- g. Providing left-turn lanes on Wisconsin Avenue at Jenifer Street (at developers' expense); and
- h. Providing an exclusive left-turn lane on Wisconsin Avenue from the northwest approaching Western Avenue (with the cooperation of Montgomery County and the Maryland State Highway Administration) (at developers' expense) .

The estimated cost of the aforementioned improvements in 1986 dollars is \$1.6 million, which will have to be borne by the three developers in the Square.

- 48. In the March 28, 1986 memorandum, the DFW further indicated that a comprehensive study of present and future traffic in, through, and around the residential communities would be useful in determining appropriate measures for alleviating the problems that now exist in those communities. Such a study would take two to three years and would cost approximately \$200,000 to \$300,000, depending upon its geographical scope. The study might produce plans that would reduce the amount of traffic using local streets, rather than arterials. The study would focus on a larger area to provide the type of recommendations developed to protect the adjacent community from adverse impacts resulting from Square 1661 development.
- 49. The District of Columbia Department of Consumer and Regulatory Affairs (DCRA) , Environmental Control Division, by letter dated December 23, 1985, did not oppose the applicants' environmental consultant's conclusion that the development of Square 1661 will not cause or aggravate a violation of carbon monoxide air quality standards in the vicinity of the development, The DCRA believes that the traffic volumes, level of service, and volume/capacity ratio for the intersection of Western and Wisconsin Avenues are sufficiently low as not to violate the air quality standards.
- 50. Advisory Neighborhood Commission # 3E, by letter dated January 30, 1986 and by testimony presented at the public hearing, opposed the application for the following reasons:
 - a. That it is inappropriate for the Zoning Commission to consider the second-stage PUD application while the Commission's order on the first-stage PUD approval (Z.C. Order No. 472) is in litigation and the validity of that order is doubtful; and
 - b. That the proposed project exceeds development parameters which would be appropriate for its location and for the surrounding residential

community. The second-stage PUD application fails to address in any way the serious traffic volume issues which were discussed at considerable length during the hearings on the first-stage review. In fact, the Zoning Commission's failure to include any explicit guidelines, conditions, or standards on traffic volume in its decision to approve the first-stage PUD has effectively eliminated traffic impact issues from consideration at the second-stage hearing.

51. In addition to the aforementioned reasons for opposing the application, ANC-3E identified the following comments on the applicants' compliance to the conditions set forth in Z.C. Order No. 472:
 - a. It is inappropriate for the Zoning Commission to consider this application while the Commission's order on the first-stage is in litigation and the validity of that order is in doubt;
 - b. The final design of the project, while clearly based on the design approved as part of the first-stage process, has not progressed materially beyond that design. For example, there is no discussion of, nor drawings of, signage proposed by the project;
 - c. The FAR of the final plan should be reduced to the minimum 4.875 level as a material concession to the seriousness of traffic congestion and in light of no significant additional amenities;
 - d. Any increase in the height of the proposed building beyond the 100 feet which has been approved should not be permitted;
 - e. The hotel should not have any ballroom or exhibit space and any meeting rooms provided should have a capacity not to exceed 50 persons;
 - f. A requirement of final approval should be a condition that the hotel operator agree not to book any group intending to arrive or leave by bus;
 - g. Forty-third Street should not be used during the construction phase of development;
 - h. The design of the through-block connector encourages truck traffic to approach Square 1661 by Military Road through an exclusively residential neighborhood. The applicants should be required to submit a workable truck management

plan as part of second-stage hearings. The mass exit of automobiles and trucks on Jenifer Street will overstress the storage and queuing capacity of that street. While plans to prohibit left hand turns from the connector of Jenifer Street are commendable, the record of successful enforcement of no left turn restrictions is dismal;

- i. ANC - 3E believes that the proposed pedestrian connection is long and tedious and that pedestrians are more likely to prefer more direct routes on the surface. There will be a strong temptation to cross the avenue at mid-block. It is recommended that the Commission require a plan for a street crossing at mid-block; and
 - j. ANC - 3E has no serious objection to the proposal to use the park area as a temporary banking facility provided that there will be an adequate supply of parking spaces at that location.
52. The Miller Companies, party in the proceedings and developer of the property adjacent and immediately to the south of the PUD site, by testimony presented at the public hearing and by post-hearing submission dated March 28, 1986, supported the application subject to conditions relating to:
- a. Uniform signage;
 - b. Solid roofing of the Donohoe truck loading area, if it is to remain in its current location;
 - c. Agreement between Miller and Donohoe on the location of the interim bank and construction staging;
 - d. Truck access to the Square; and
 - e. Agreement on operation, maintenance and cost of the through-square connector.

The Miller Companies believe that the three developments planned for Square 1661 will result in the creation of a major uptown Regional Center and provide sufficient public benefits to the District. The only way this can be ensured, however., is through an agreement between the developers on the issues listed above.

53. Abrams and Associates, party in the proceedings and the developers of property adjacent and immediately south of the Miller Co. site, by testimony presented at the public hearing and by post-hearing submission dated

April 4, 1986, supported the application and indicated the following:

- a. That subsequent to studying numerous design alternatives, the through-square connector is the only solution that works for all three developers in the Square; and
 - b. That, pursuant to the Memorandum of Understanding, and subject to conditions imposed by the Commission, each developer retains the flexibility to design their signage for specific tenants in accordance with the needs of its tenants.
54. The Friendship Neighborhood Coalition (FNC) , party in the proceedings, by submission dated February 1.0, 1986 and by testimony presented at the public hearing, opposed the application. The FNC identified the following concerns:
- a. Traffic: That there are too many unresolved issues as to whether there should be a right-turn lane at Western Avenue going northbound on Wisconsin Avenue, how pedestrians should cross the intersection of Western and Wisconsin Avenues, whether there be a realignment of Military Road and Western Avenue to allow access to Square 1661 from Western Avenue, whether Jenifer Street be widened between the through-square connector and Wisconsin Avenue, and what if any signalization changes should be made?;
 - b. Comprehensive Transportation and Parking Management Plan: That publicity advertisements of the project should stress that it is immediately above the Friendship Heights Metrorail Station and that transportation and parking management programs be shared by other developers to limit expense, and duplication of effort;
 - c. Through-square Connector: That truck maneuvering and noises generated in the Donohoe loading facility may adversely affect the existing and future residents to the East, and that the location of trash dumpsters may create problems;
 - d. The Park: That the small park to the east of the Donohoe site should be enlarged as to become a real public amenity to the community, that every effort be made to preserve to existing large trees on the park, and that the visual affect of trucks using the through-square connector be lessened;

- e. First Source Employment and Minority Hiring Agreements: That said agreements be strictly enforced;
 - f. Air Pollution: That air pollution in general will increase in the project area, and that the mechanical venting of the garage be located as not to adversely affect the residential community;
 - g. Construction: That an ombudsman be designated as liaison between the developer and the residential community, and that specific trucks routes, hauling times, and work hours be strictly observed;
 - h. Uses: That the extent of commercial and lack of residential uses is generally opposed, but that there is no objection to the prohibition on large meeting and convention rooms in the hotel nor to the proposed health club; and
 - i. Architecture: That there were major changes for the worse between the first and second stage proposals including the omission of a large section of glass that served as a visual separation between the hotel and office components.
55. Advisory Neighborhood Commission - 3G, party in the proceedings, by statement dated February 13, 1986 and by testimony presented at the public hearing, opposed the application. ANC - 3G recommended that the Commission require specific conditions with regard to the removal of earth from the PUD site and also suggested that the developer should pay for a traffic mitigation program. This program would consist of a cooperative neighborhood-city government-developer study of an area east of Wisconsin Avenue, with funding provided for by the developers in Square 1661.
- 56' The Citizens Coordinating Committee on Friendship Heights (CCCFH), part in the proceedings by submission dated February 13, 1986 and by testimony presented at the public hearing, opposed the application. The CCCFH indicated that the proposed development would exacerbate traffic problems in the Friendship Heights neighborhood, particularly at the Wisconsin and Western Avenues intersection, and that the proposed "ring road" on the Maryland side of Friendship Heights would not alleviate traffic problems in that through traffic would continue to use Wisconsin Avenue, not the ring road. The CCCFH recommended that a decision on the application be deferred until traffic problems are resolved, that the size of the project be reduced, that

some residential uses be included, and that some commercial uses be eliminated.

57. Fran Segal, party in the proceeding, by submission dated February 10, 1986 and by testimony presented at the public hearing, opposed the application. In addition to concerns associated with the orientation and related parking requirements for the temporary bank facility and concerns associated with the height of the project, Fran Segal's major thrust addressed problems associated with the construction of the project. She supported the developer/community agreement proposed by the FNC and identified the following irritating experiences and annoyances that she wanted corrected:
- a. Ugly and pornographic graffiti on the Chevy Chase Metro Building fence:
 - b. Workers parked on 43rd Street while eating lunch and drinking beer and tossing the trash on the lawns;
 - c. Metro construction blasting late into the evening (a neighbor's dining room ceiling fell from the shock waves); and
 - d. A continuous line of dump trucks on 43rd Street - 5 and 6 - waiting to be summoned one truck at a time for the next load of fill during Metro construction.
58. The Commission finds that Square 1661 should be developed and that the PUD process offers an effective means by which planning and development objectives can be achieved on the Square. The Commission further finds that the proposed office, retail, and hotel uses are appropriate for the site and consistent with the objectives of the Comprehensive Plan of the District of Columbia.
59. The Commission concurs with the recommendation of the Office of Planning regarding approval of the application, subject to conditions. However, while the Commission notes that Alternative B with the 110 foot high office component provides some benefits in terracing and setbacks, the Commission finds that Alternative A (the subject proposal) provides more direct benefit to the community by lessening the visual impact of the project with an office component of 100 feet in height.
60. The Commission concurs with the conclusions of the Department of Consumer and Regulatory Affairs regarding air quality.

61. The Commission concurs with the recommendation of the Department of Public Works and finds that a transportation management program in addition to a legally binding agreement between all developers that resolves the intra-square transportation circulation issues are necessary. The Commission finds that the Memorandum of Understanding between developers meet that need.
62. The Commission further concurs with the recommendation of the DPW regarding immediate and long-term traffic impact on the neighborhood, and believes that, in its decision, it has adequately addressed the concerns of the DPW, and the parties in the proceedings.
63. As to the concern of the ANC-3E and others regarding the appropriateness of whether the Commission should consider the second-stage application while the first-stage application decision is in litigation, the Commission finds no compelling reason, lawful or otherwise, to discontinue the processing of the instant application. The Commission believes that it generally is in the best interest of the District of Columbia to not defer the zoning process because of pending related litigation.
64. As to the concerns of the ANC-3E and others regarding the development exceeding the parameters that are appropriate for the surrounding community, the Commission is mindful of its responsibility to regulate land use in the District of Columbia and, through the zoning process, decides the appropriateness of its actions, and sets parameters to meet that responsibility.
65. As to the concerns of the ANC-3E and others regarding the second-stage application failing to address traffic volume issues and the second-stage review process precluding the opportunity to address traffic impact issues, the Commission finds to the contrary. The Commission's decision in the first-stage process recognizes the importance of traffic and transportation issues and allowed for the applicant, the DPW, the ANC-3E and others an opportunity to examine and resolve related concerns in the second-stage proceedings, The Commission believes that the process of examination and resolution is well underway, and that the decision in this second-stage proceeding provides a process which will effectively resolve those issues.
66. As to the concerns of the ANC-3E and others regarding the height of the project, pursuant to Findings No. 59, the Commission finds that it has addressed that concern in the decision of this order.

67. As to the concerns of the ANC-3E and others regarding the proposed floor area ratio, the Commission is mindful of the guidelines, conditions, and standard of Z.C. Order No. 472 (first-stage PUD approval) relative to FAR. The Commission is also mindful that the instant application proposes to meet the FAR conditions of Z.C. Order No. 472, excluding the atrium and public walkways. The Commission is not persuaded at this time by the applicants' rationale for exceeding the FAR conditions, however, the Commission is persuaded to approve additional FAR for the instant application because of the merit associated with the public benefits and amenities package.
68. As to the concern of the ANC-3E and others regarding the use of large function spaces in the hotel, the Commission finds that it has addressed the matter in its decision.
69. As to the concern of the ANC-3E regarding a prohibition on the hotel operator from booking any groups intending to arrive or leave by bus, the Commission believes that this is a matter that is not within the controls of zoning nor enforceable through zoning.
70. As to the concern of the ANC-3E and others regarding a prohibition on using 43rd Street during the construction phase of development, the Commission believes that this requirement may be overly burdensome, but believes that the concerns of the DPW relative to this matter will be met.
71. As to the concerns of the ANC-3E and others regarding the design of the through-square connector and a requirement for the applicant to submit a truck management plan as part of the second-stage proceeding, the Commission believes that the design of the through-square connector offers the most functional and effective means of servicing the square with the least adverse affect on the surrounding community. The Commission further believes that a workable truck management plan is necessary, and during the course of the proceedings, required the applicant to submit such a plan.
72. As to the concerns of the ANC-3E and others regarding the requirement of a mid-block street crossing,, the Commission is not persuaded at this time that it should consider the matter as a requirement. However, if in the wisdom of the DPW negotiations with the applicants, the DPW determines such a necessity, the Commission would not object.

73. As to the concerns of the ANC-3E regarding the use of the temporary banking facility with adequate accessory parking, the Commission finds that the triangular-shaped park is an appropriate area to locate the temporary banking facility. The Commission is mindful of concerns of the community and believes that it has addressed those concerns in its decision.
74. AS to the concerns regarding a comprehensive transportation study, a minority jobs program, and a developer/community liaison, the Commission believes that, in its decision, it has effectively addressed those concerns.
75. As to the concerns regarding irritating experiences and annoyances, the Commission finds that those annoyances that have not already been addressed are outside the scope of the zoning process and should be addressed through other government agencies.
76. The Commission finds that the applicants have met the intent and purpose of the Zoning Regulations, the Planned Unit Development process, and the intent of the preliminary approval, including the related guidelines, conditions, and standards.
77. The proposed action of the Zoning Commission to approve the application with conditions, was referred to the National Capital Planning Commission (NCPC), under the terms of the District of Columbia Self-Government and Governmental Reorganization Act, The NCPC, by report dated April 14, 1986, indicated that the proposed action of the Zoning Commission would not adversely affect the Federal Establishment or other Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan of the National Capital.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the subject site, because control of the use and site plan is essential to ensure compatibility with the neighborhood.
2. The development af this PUD carries out the purposes of Article 75 to encourage the development of well-planned residential,. institutional, commercial and mixed use developments which will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.

3. The development of this PUD is compatible with city-wide goals, plans and programs, and is sensitive to environmental protection and energy conservation.
4. Approval of this application is not inconsistent with the Comprehensive Plan of the District of Columbia.
5. The approval of this application is consistent with the purposes of the Zoning Act.
6. The proposed application can be approved with conditions which ensure that the development will not have an adverse affect on the surrounding community, but will enhance the neighborhood and ensure neighborhood stability,
7. The approval of this application will promote orderly development in conformity with the entirety of the District of Columbia zone plan, as embodied in the Zoning Regulations and Map of the District of Columbia.
8. The Zoning Commission has accorded to the Advisory Neighborhood Commission -- 3E the "great weight" to which it is entitled.

RECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the District of Columbia Zoning Commission hereby orders APPROVAL of this second-stage application for a Planned Unit Development and change of zoning from R-5-B, C-2-B and C-3-A to C-3-B for lots 20, 21, 23, and 810 in Square 1661 at the southeast corner of the intersection of Wisconsin and Western Avenues, N.W., with portions of a public street and alley proposed to be closed. The approval of this PUD and change of zoning are subject to the following guidelines, conditions, and standards:

1. The Planned Unit Development ("PUD") shall be developed in accordance with the plans prepared by Clark, Tribble, Harris & Li, architects, marked as Exhibits No.23,49F, 69, 92, 93, 94, 98, and 121 of the record, as modified by the guidelines, conditions and standards of the order.
2. The project shall be developed as a mixed-use project consisting of a hotel component, a general

office component and a retail component connected by a covered atrium.

3. The floor area ratio ("FAR") of the project shall not exceed 5.45, or shall not exceed 5.125, exclusive of the atrium and public passageway areas, as shown and identified on Exhibits No. 23 and 70 of the record, and exclusive of the area to be covered, pursuant to Condition No. 22, below.
4. The height of the office component of the project shall be 100 feet, as shown on the plans marked as Exhibit No. 23 of the record. The height of the hotel component shall be approximately 70 feet to the cornice line of the hotel, as shown on the plan marked as Exhibit No. 23 of the record.
5. The lot occupancy of the project shall not exceed 91 percent except to permit the construction of a cover over the maneuvering area and the through block connector.
6. The final design of the hotel shall have no less than 175 rooms. No exhibit space or ballroom space shall be provided. Other function space shall be limited to that space needed to serve registered guests of the hotel. No meeting room facilities shall be provided in the hotel which exceed a capacity of 50 persons.
7. A space for the temporary parking and loading of a bus to serve the hotel shall be provided on the outside of the hotel in the area designated on Exhibit No. 49F of the record. Bus traffic shall proceed through the underground connector in the project without using 43rd Street or eastbound Military Road.
8. Parking shall be provided as proposed in the plans marked, as Exhibit No. 49F of the record. The stacked parking spaces are restricted to use by the office tenants. Once the project is completed, there shall be no vehicular access to or from 43rd Street, whether along Belt Lane or otherwise.
9. The property shall be developed with a through-block connector, as shown on the plan marked as Exhibit No. 121 of the record, provided that all three projects are developed in Square 1661. This plan also provides for an entrance and exit to the project on Military Road and an entrance and exit to the project on Wisconsin Avenue as well as the

opportunity to connect to the PUD approved for the Miller Company on the adjacent property to the south. Once the remainder of the square has been developed in accordance with the two other PUD's currently pending before the Commission, traffic shall flow through the through-block connector and the access presently provided on Military Road will be converted to a one-way entrance into the project.

10. Additionally, as part of its approval of the other PUDs in the square, the Commission may order that the two-way entrance/exit of this project presently approved for Wisconsin Avenue be converted to one-way access, to be shared with the adjacent development in the square or be otherwise modified. In the event that the adjacent proposed development does not proceed to construction, the subject development shall continue to provide two-way access on both Wisconsin Avenue and Military Road.
11. The parking garage shall provide the potential for a connection to the adjacent property at not less than one location below grade level, as shown on the plan filed in the record and marked as Exhibit No. 49F and as modified by Exhibit No. 121. Additionally, the applicants have the flexibility to modify its parking garage plan to provide additional connections to the adjacent property in order to facilitate vehicular and pedestrian circulation.
12. The office component of the building shall be set back at a ratio not to exceed 1 to 1 (45 degree maximum) beginning at a height of not more than 60 feet at a point where the office component abuts the adjacent R-5-B District to the east of the PUD site, as shown on the plan filed in the record and marked at Exhibit No. 23.
13. Loading activity for the PUD site shall be in accordance with the truck management plan filed in the record of the case and marked as Exhibit No. 82. There shall be no loading activity, including arrivals, departures, or maneuverings, at the PUD loading facility from 7:00 A.M. to 9:00 A.M. or from 4:30 P.M. to 6:00 P.M.
14. Pursuant to the Memorandum of Understanding filed in the record as Exhibit No. 83, the applicant shall coordinate with other property owners in the Square concerning graphics for the through-block

connector, signage for the parking garage, and architectural treatment of a through-block connector. Additionally, the applicant shall coordinate with other property owners in the Square to provide coordinated operation of the below-grade transportation system,

15. The applicants shall implement the agreement with the Department of Employment Services filed in the record as Exhibit No. 95, The applicants are encouraged to implement this agreement throughout the lifetime of the project.
16. The applicants shall implement the Memorandum of Understanding with the Minority Business Opportunity Commission filed in the record as Exhibit No. 22b.
17. The project shall include an employee transportation management program which shall include the components described in the findings of fact and the plan filed in the record as Exhibit No. 22b. The applicant shall work with the District of Columbia's Kideshare Coordinator and other developers in the Square in the implementation and enforcement of this program.
18. The project shall include the amenities package proposed as part of this application and described in detail in the findings and record of this case.
19. The proposed garage for the PUD site shall include a lighted sign which designates at each garage entrance whether the parking garage is full,, as generally described in Exhibit No. 23 filed in the record.
20. The venting of the garage shall be conducted in full accordance with all applicable District of Columbia code requirements. In accordance with these requirements, the venting shall occur at a minimum height of 20 feet above grade and shall be designed so as not to have an impact on any adjacent residential use or any public amenity space.
21. The project shall provide a direct connection to the Friendship Heights Metrorail Station. In addition, the project shall provide a pedestrian connection for Metrorail users to the Miller property to the south of the PUD site, as shown in the plans filed in the record and marked as Exhibit No. 49F.

22. The final design of the triangular park area located on the PUD site at the intersection of Military Road and 43rd Street shall be landscaped and developed in accordance with the plan marked as Exhibit No. 49F in the record. The park shall be open to the public. Additionally, the maneuvering area located adjacent to the park area and the entrance driveway to the through-block connector shall have a solid covering. The applicant has the flexibility to design and use the space created by this covering as part of its project without having to include the area in FAR.
23. The applicant may use the park area located on the PUD site at the intersection of Military Road and 43rd Street on an interim basis for the temporary location of the NS&T banking facility. The design of the NS&T banking facility and the parking spaces to be provided shall be in accordance with the plans marked as Exhibit No. 97 of the record. Use of the parking spaces shown on the plan is restricted to customers of the NS&T banking facility. Vehicular access shall be from Military Road, only, and not from 43rd Street or Belt Lane.
24. The applicant is encouraged to coordinate its construction schedule with the adjacent property owners so as to provide to the fullest extent possible coordinated staging of construction vehicles. Additionally, the applicant shall appoint an ombudsman to work with the community throughout the construction of the project.
25. Prior to the application for a building permit, the applicants shall enter into an agreement with the Department of Public Works (DPW) to provide for a pro rata share of the funding and implementation of the following:
 - a. Implementation of the street and road improvements as described in paragraph 2b of the DPW report dated March 28, 1986 and marked as Exhibit No. 102 of the record; and
 - b. A further study of present and future area traffic, including construction vehicles, as described in Paragraph 2c, of the DPW report dated March 28, 1986 and marked as Exhibit No. 102 of the record. The study area boundaries are to include but not be limited to Western Avenue on the north, 41st Street and Reno Road on the east, Fessenden Street on the south, and River Road and Western Avenue on the west.

The applicants shall share with the other developers in Square 1661 the cost of this program, and the area street and road improvements.

26. Pedestrian circulation through the project shall be provided, as shown on the plan marked as Exhibit No. 49F of the record. The streetscape plan for the project shall be as shown on the plan marked as Exhibit No. 49F of the record, except as modified by the Department of Public Works.
27. The facade design treatment and materials of the proposed building shall be generally consistent with the plans marked as part of Exhibit No. 23 and as further described on Exhibit No. 81 filed in the record of the case. The final selection of exterior and interior materials shall be within the color ranges as proposed based on availability at time of construction. There shall be no tinted glass, other than bronze or grey, or reflective glass used in the exterior facade.
28. The applicant may vary the location and design of all interior components of the building including additional or reconfigured position of vertical transportation as necessary to comply with all applicable codes or as required to obtain a final building permit.
29. Signage for the proposed project shall be in accordance with the signage criteria filed in the record and marked as Exhibits No. 79 and 80, except as follows:
 - a. The spandrel sign on the building designating the names of office uses shall be eliminated; and
 - b. Signs may be backlit but shall not be illuminated from within.
30. All utility lines for the project, along with the existing lines on adjacent street frontages, shall be placed underground.
31. The applicant shall coordinate its construction schedule with the Department of Public Works to minimize any impact from the proposed reconstruction of Military Road.
32. No construction on the PUD site shall start before 7:00 A.M.
33. Removal of dirt and other materials from the site shall be conducted in accordance with the plan filed in the record and marked as Exhibit No. 101. No excavation truck traffic shall proceed eastbound on Military Road. No trucks shall be queued on public streets in the residential area east of the site.

34. The change of zoning from R-5-E, C-2-B and C-3-A to C-3-B shall be effective upon recordation of a covenant as required by Subsection 7501.8 of the Zoning Regulations.
35. The planned unit development approved by the Zoning Commission shall be valid for a period of two years from the effective date of this order. Within such time, application must be filed for a building permit, as specified in Paragraph 7501.81 of the Zoning Regulations. Construction shall start within 3 years of the effective date of this order.
36. No building permit shall be issued for this PUD until the applicant has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia and satisfactory to the Office of the Corporation Counsel and the Zoning Regulations Division, which covenant shall bind the applicant and successors in title to construct on and use this property in accordance with this order, or amendments thereto of the Zoning Commission.
37. When the covenant is recorded, the applicant shall file a certified copy of that covenant with the records of the Zoning Commission.

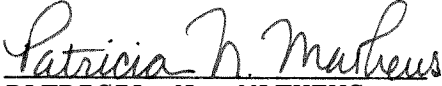
Vote of the Zoning Commission taken at the public meeting on April 14, 1986: 4-0 (Lindsley Williams, Maybelle T. Bennett, John G. Parsons, and Patricia N. Mathews, to approve with conditions - George M. White, not present not voting).

The Conclusions of Law and Decision components of this order were approved by the Commission at its public meeting on July 14, 1986 by a vote of 4-0 (George M. White, Maybelle T. Bennett, John G. Parsons, and Patricia N. Mathews, to approve as amended - Lindsley Williams, not present, not voting).

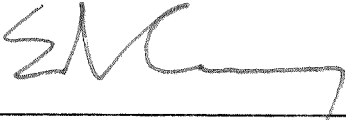
This order was adopted by the Commission at its public meeting on August 4, 1986 by a vote of 5-0 (Lindsley Williams, John G. Parsons, George M. White, Maybelle T. Bennett, and Patricia N. Mathews, to adopt as amended).

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is final and effective upon publication in the D.C. Register, specifically on

29 AUG 1986



PATRICIA N. MATHEWS
Chairperson
Zoning Commission



EDWARD L. CURRY
Acting Executive Director
Zoning Secretariat

zcorder492/LJPT

zcorder492/LJPT